



Building Department

4/7/08 (3)
TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9632
Fax (978) 264-9630
building@acton-ma.gov

INTERDEPARTMENTAL COMMUNICATION

To: Steve Ledoux, Town Manager **Date:** March 20, 2008
From: Roland Bartl, AICP, Planning Director *RB*
Subject: **Amendment - Site Plan #11/25/87-292, 830 Main Street (Capizzi Co., Inc.)
Landscape Plan Changes**

Capizzi is a landscaping contractor at 820 Main Street in North Acton. They have applied for a building permit for a 30' x 30' pole barn type structure to be added to an existing storage building located more to the rear on their site. They intend to create permanent equipment storage space to replace the currently used box trailers.

Capizzi had a site plan special permit approval in 1987; the decision is attached. Section 3.2 of that decision prohibits any further development without the written consent of the Board of Selectmen. Section 3.6 describes future amendment procedures.

I have reviewed the proposal and find that it complies with zoning requirements. This amendment application has not been circulated for departmental comments. It seems to me that the regular building permit review is sufficient in this case. However, note condition 2.2 in draft decision. The applicant stated advised me that Tom Tidman has already determined that the building is not within the Conservation Commission jurisdiction. I could not verify that with Tom at the time of this writing.

Attached is a draft decision. I recommend approval of this small site plan amendment by consent in accordance with section 3.6 of the 1987 decision (amendment of permit w/o public hearing if Board finds that insignificant to public interest and consistent with zoning bylaw).

March 17, 2008

Board of Selectmen
Town of Acton
Selectmen's Office
472 Main St.
Acton, MA 01720

Re: Amendment to Site Plan #11/25/87-292; 820-830 Main Street

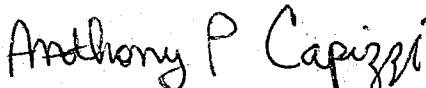
Dear Selectmen,

We respectfully submit this request for an amendment to the above referenced site plan in accordance with limitation 3.2 of the Special Permit granted, dated April 26, 1988. Said limitation states that there shall be no further development or subdivision of this site without written consent of the Board.

The proposed work is to simply extend the existing pole barn by 30 feet. This is for the storage of landscaping equipment currently kept in box trailers. The trailers are old, in disrepair, and need to be replaced. However, we believe that extending the pole barn is preferable to simply replacing the trailers as it would be a more durable and aesthetically pleasing solution.

The extension of the pole barn does not require any new grading, drainage or landscaping as it will occupy the same footprint as the trailers. This extension of the pole barn also does not reflect any increase in traffic or change in usage of the site. The equipment currently in the trailers will be stored in the pole barn.

Sincerely,
Capizzi & Co., Inc.



Anthony P. Capizzi

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DECISION of the Board of Selectmen (hereinafter the Board) on the petition of Capizzi & Co., Inc. (hereinafter the Applicant) for the property located 820 Main Street, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map C-5 Parcel 60. This Decision is in response to an amendment application dated March 17, 2008. The record of the proceedings and submissions upon which this permit is based may be referred to in the Office of the Town Clerk, or the Office of the Board.

Exhibits

- Letter with amendment request dated March 17, 2008, signed Anthony P. Capizzi.
- Site plan by Acton Survey & Engineering, Inc dated 3/23/87, last revised on 3/18/08 for 30' x 30' pole barn extension.
- Elevation plans by Allied Design Architectural & Engineering Group, P.C. dated 2/12/08 (sheet S4 in building permit application plans).
- Site Plan Special Permit #11/25/87-292.

1.0 Findings and Conclusions

Based upon its review of the exhibits and records of the proceedings, the Board found and concluded that:

- 1.1 The site is subject to an existing Site Plan Special Permit, decision #11/25/87-292.
- 1.2 The proposed 30' x 30' pole barn is intended for equipment storage space to replace old box or storage trailers currently in use for this purpose.
- 1.3 The site plan indicates that a wetland is located about 100 feet from the proposed pole barn location.
- 1.4 The proposed amendment is not significant to the public interest and not inconsistent with the purpose and intent of the Zoning Bylaw and the terms of the original permit. It will not require a public hearing.

Therefore, at its meeting on April 7, 2008 the Board voted to **GRANT** the requested amendment subject to the following conditions and limitations.

2.0 Conditions and Limitations

- 2.1 This Decision applies only to the requested amendment. No site work or construction shall begin prior to the issuance of a building permit.
- 2.2 Prior to the issuance of a building permit the Applicant shall contact the Natural Resource Director for a determination if a Notice of Intent is required. If required, no building permit shall be issued until the Conservation Commission has issued an Order of Conditions.
- 2.3 Permits and approvals from other governmental boards, agencies, or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 2.4 All vacated box or storage trailers shall be removed from the site within 30 days after the issuance of a Certificate of Occupancy.
- 2.5 Site Plan Special Permit #11/25/87-292, and the plan approved thereunder, shall remain in full force and effect except as herein modified and shown and described in the Exhibits above.

Witness our hand this 7th day of April, 2008

F. Dore' Hunter, Chairman

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I, Christine Joyce, hereby certify that this is a true copy of the Decision of the Board of Selectmen.

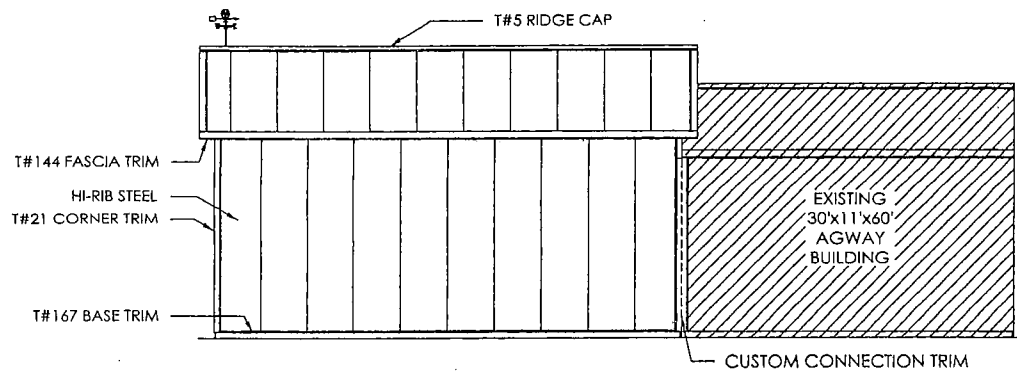
Christine Joyce, Recording Secretary

Date filed with Town Clerk

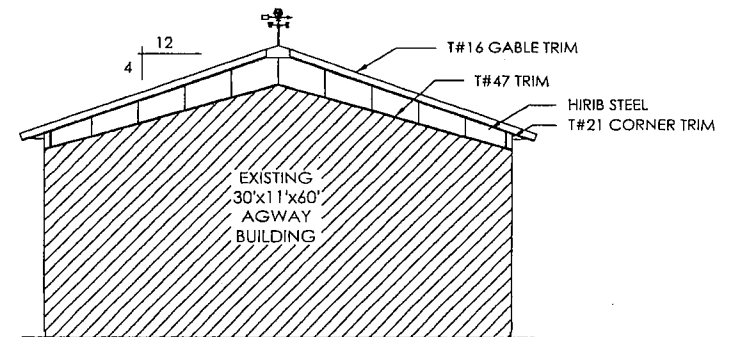
Eva Bowen, Town Clerk

cc: Applicant
Building Commissioner
Planning
Engineering
Conservation
Municipal Properties
Health
Town Clerk

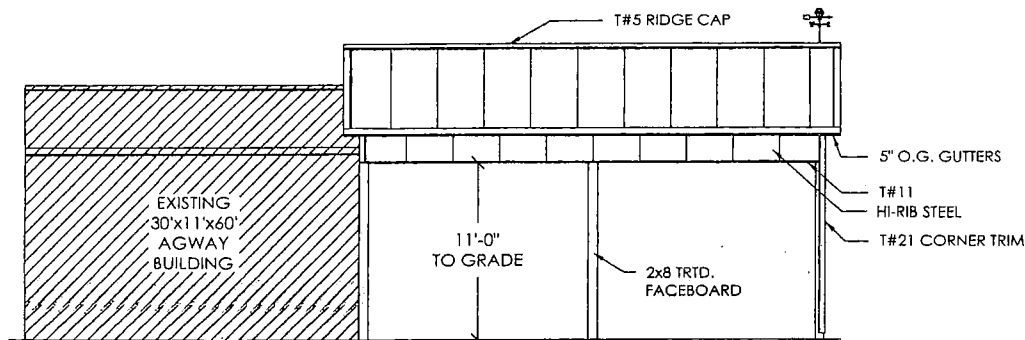
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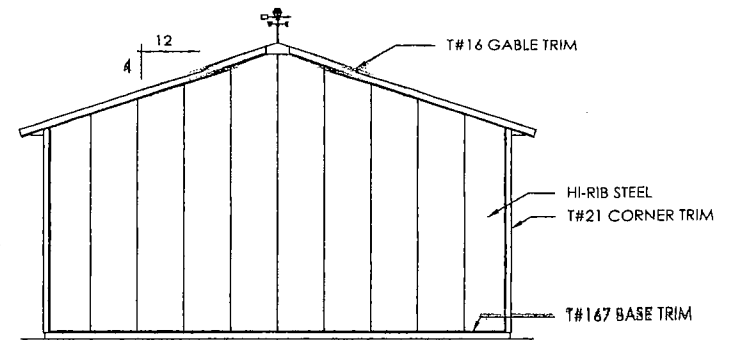
NORTHWEST ELEVATION



SOUTHWEST ELEVATION



SOUTHEAST ELEVATION



NORTHEAST ELEVATION

Planning
April 26, 1988

DECISION

Site Plan Special Permit
Capizzi & Company, Inc., 820 Main Street
Application #11/25/87-292 (WEEKS)
Plan File #3128

RECEIVED

APR 27

ACTON PLANNING BOARD

DECISION of the Board of Selectmen (hereinafter the Board) on the petition of Capizzi & Company, Inc. (hereinafter the Petitioner), for property located at 820 Main Street, Acton, Massachusetts owned by Capizzi Family Trust. Said property is shown on Acton Town Atlas map #C-5, parcel #60.

This decision is in response to an application submitted to the Board on November 25, 1987 by the Petitioner for a Site Plan Special Permit under Section 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) to implement several improvements on the site including the construction of a second storage building and of an addition to the existing office/workshop building, and to use such for vehicle and equipment storage and for new office space respectively under Section 3.6.3 of the Bylaw.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters, and other parties in interest as required by law, the hearing was called to order on Tuesday, February 2, 1988 at 7:45 P.M., at Room 114 of the Acton/B Roxborough Regional Junior High School, Acton, Massachusetts. Board members William Weeks, Dore' Hunter, Charles Kostro, Jr. and Nancy Tavernier were present throughout the proceedings. Board member Don Gilbert arrived during the hearing.

The Petitioner was represented by John E. Dunphy, Jr., Acton Survey & Engineering, Inc.. The record of the proceedings and submissions on which this permit is based may be referred to in the office of the Town Clerk or the office of the Board of Selectmen.

Submitted for the Boards deliberation, prior to the close of the hearing, were the following exhibits:

EXHIBIT 1

A plan entitled "Site Development Plan of land in Acton, MA prepared for Capizzi & Co., Inc., 820 Main Street, Acton, MA, drawn by Acton Survey & Engineering, 277 Central Street, Acton, MA. Dated March 23, 1987, modified September 28, 1987 and November 17, 1987, said plan consisting of the following sheets: Floor Plan, Side View & Front & Rear Views drawn by R.L. Jeanotte, Inc., dated January 12, 1987 and Planting Plan dated July 14,

1987 drawn by Peter R. Spellmeyer, Registered Landscape Architect.

EXHIBIT 2

A properly executed "Application for Site Plan Approval" dated November 25, 1987 including the following submissions:
1. Letter from Roland Bartl to Acton Survey & Engineering dated 11/20/87.
2. Re-application review letter dated 10/13/87.
3. Capizzi response letter dated 11/18/87.
4. List of requested waivers from the Site Plan Special Permit Rules & Regulations.
5. Regulation 5.2 written statement.
6. Certified List of Abutters dated 3/18/87 signed by Mark Mazur.
7. Copy of most recent recorded plan.
8. Drainage calculations.
9. 1200 scale locus map.
10. Board of Health "As-built plan"
11. Conservation Commission Order of Conditions.
12. Department of Army Permit.
13. DWPC waiver of Water Quality Certification.
14. Cover letter to Department of Army re: Water Pollution Control waiver letter.

EXHIBIT 3

Memo from Site Plan Coordinator to Board of Selectmen; Memo from the Building Commissioner to the Town Manager; Engineering Administrator to Town Manager; Health Director to Site Plan Coordinator; Conservation Administrator to Site Plan Coordinator; Municipal Properties Director to Site Plan Coordinator. apply to the case in question).

Based upon its review of the exhibits and the record of the proceedings, the Board found and concluded that:

1. The site is located within the General Industrial District. The proposed use is allowed in this district.
2. The site is located within the Aquifer Fringe Area of the Aquifer Protection Overlay District and within the Aquifer Protection Area as defined by Lycott Environmental Research, Inc.. All uses and improvements on the site should be conducted and designed in a manner that will provide maximum protection to the groundwater resources.
3. The proposed construction activity would occur partially within a wetland. The Plan provides for wetland replacement. The Conservation Commission has issued an Order of Conditions regarding this work.
4. An existing wall mounted sign is to remain. The Bylaw requires a license for outdoor signs.

5. The Plan shows a walkway from the driveway to the entrance of the new building. It is unclear if this walkway is designed for handicapped use. The building must be handicapped accessible.
6. The Plan shows 36.1% open space, slightly more than the minimum requirement of 35%. The designated open space should be preserved and the site should be maintained to minimize the visual impact from Main Street.
7. The Plan proposes storm drain pipes from the pavement to discharge into a proposed wetlands filter. The drainage system should be designed to minimize erosion and provide optimum protection to the groundwater resources.
8. The existing 2,000 Gallon underground storage tank is approximately 20 years old. It has not been tested for several years. The tank could pose a serious threat to the groundwater resources. The Board welcomes the Petitioner's intent to replace it.
9. Significant amounts of fertilizers and pesticides are stored on the site. They should be stored indoors in a safe location.
10. The Petitioner estimates that the amount of oil changed on vehicles and equipment is approximately 130 Gallons per year. This does not warrant the installation of a gas trap in the building. The Petitioner should make sure that all waste oil is stored and disposed properly.
11. Currently a private well is used on the site. It is the Board of Health's policy that new construction must be serviced by public water if such service is available. A water main exists on Main Street. The continued use of the private well for the purpose of outdoor watering and misting of landscaping material is appropriate and economical.
12. The Board of Health found the design and the maintenance of the septic system inadequate.
13. The existing fire alarm system is connected to a private alarm service in Portsmouth, New Hampshire. The petitioner would like to maintain this system. The Acton Fire Department recommends the installation of an alarm master box that is connected to the Fire Department. This would shorten the response time in case of an emergency.
14. Acton's sidewalk master plan calls for a sidewalk along Main Street.
15. An existing antenna on the site exceeds the height limitation of the Bylaw. However at the time of its installation it was in conformance with the existing

regulation at that time.

16. The applicant requested waivers from Sections 3.5.3, 5.2.6, 5.7 and 5.8 of the Rules & Regulations. The requested waivers are granted.
17. The Plan as amended herein and as provided for in the conditions protects the Town and the neighborhood against seriously detrimental or offensive uses on the site and against adverse effects on the natural environment.
18. The Plan as amended herein and as provided for in the conditions provides for convenient and safe vehicular and pedestrian movement to and from site as well as within the site, provides for adequate methods of waste disposal and for parking and loading facilities.
19. The granting of a Site Plan Special Permit for the Plan as amended herein and as provided for in the conditions will not derogate from the intent of the Bylaw to limit the adverse effects of the use and development of land on the surface and groundwater resources of the Town of Acton.

THEREFORE, the Board voted to GRANT the requested Site Plan Special Permit subject to and WITH the benefit of the following Plan modifications, conditions and limitations:

1. **PLAN MODIFICATIONS:** Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected or modified information. The Building Commissioner shall not issue any building permit nor shall he permit any construction activity to begin on the site until and unless he finds that the Plan is revised to include the following additional, corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any building permit or permit any construction on the site:
 - 1.1 A handicapped ramp for the walkway to the proposed addition, or an indication that the walkway enters the driveway at grade.
 - 1.2 Where storm drain pipes discharge into wetlands filter, show metal flared ends and stone rip-rap.

- 1.3 Instruct on the Plan, that if sufficient organic soil (muck) is not available to line the proposed wetlands filter to a depth of 2 feet, a silt liner shall be used for the first foot.
 - 1.4 Show on the Plan that the 2000 Gallon u.g. storage tank is to be removed. Show location of replacement tank.
 - 1.5 Show locations of pesticide, fertilizer and waste oil storage areas. All must be indoors.
 - 1.6 Show location of proposed water line.
 - 1.7 If the Board of Health requires the redesign of the septic system, show the changes on the Plan.
 - 1.8 If the Petitioner chooses to tie into the Acton Fire Department alarm system, show master box and fire alarm conduit.
2. **CONDITIONS:** The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions shall render the permit granted herein to be null and void and without force and effect.
- 2.1 **ADDITIONAL REGULATORY APPROVALS:** Prior to the issuance of a building permit or the start of any construction activity on the site, the Petitioner shall demonstrate to the Building Commissioner that the following additional regulatory approvals have been issued and that all restrictions and conditions of such approvals have been complied with:
- 2.1.1 Special Permit from the Board of Health for construction in the Aquifer Protection Area.
 - 2.1.2 Approval of the septic system from the Health Department.
 - 2.1.3 A Hazardous Materials Storage Permit from the Board of Health (Pesticides).
 - 2.1.4 A Flammable Storage Licence from the Board of Selectmen (U.g. tank replacement).
 - 2.1.5 A Sign Licence renewal from the Building Commissioner.

2.2 **LETTERS OF AGREEMENT:** Prior to the issuance of a building permit or the start of any construction activity on the site the Petitioner shall submit, for the written approval of the Board, the following letters of agreement:

- 2.2.1 **TRAFFIC:** A letter of agreement stating that at such time as traffic conditions on Main Street, in the opinion of the Board, reach levels that constitute a hazard to the citizens of the Town of Acton or others, the Petitioner or the owner of the property will contribute (on a pro rata basis) a fair share toward a traffic study to be conducted at the direction of and to the satisfaction of the Board, focused on alleviating the problem. The Petitioner's share shall be based on metering of traffic to and from the subject property. The Petitioner herein shall agree to assume all costs necessary and associated with the metering of traffic associated with the subject property. Furthermore, the letter shall express the agreement that the Petitioner or the owner of the property will contribute, according to the established pro rata basis, a fair share towards mitigation measures recommended in the traffic study.
- 2.2.2 **MONITORING WELLS:** A letter of agreement stating that at such time and in such quantity as the Board may designate, the Petitioner or the owner of the property will provide up to three (3) monitoring wells for the purpose of monitoring the general quality of groundwater in the area of the subject site and providing an early warning of potential problems. Such wells shall be installed in accordance with the directions and specifications of the Board. The Petitioner shall agree to assume all costs necessary for and associated with the installation of such monitoring wells (not in excess of \$2,000 per well at 1988 prices plus the standard adjustments for price inflation) and to provide the necessary easements and access rights to the Town of Acton and the Acton Water District in order to facilitate the taking of water samples for analysis.
- 2.2.3 **SIDEWALK:** A letter of agreement stating that at such time as the Board may designate the Petitioner or the owner of the property will

- fully cooperate with the installation of a sidewalk along either side of Main Street and will at the direction of the Board either install a sidewalk at his or her own expense or contribute to the Town the sum of money equivalent to the cost of the sidewalk installation along the entire frontage of the property (not in excess of \$30.- per linear foot at 1988 prices plus the standard adjustments for price inflation).
- 2.3 **OUTDOOR STORAGE:** Outdoor storage of construction and landscaping materials, excepting nursery stock, shall occur only in the area behind the building and the parking lot.
- 2.4 **UNDERGROUND STORAGE TANK:** Concurrently with the work on the site, the existing underground storage tank shall be removed or replaced. The removal of the tank shall be scheduled with the Acton Fire Department and the Acton Health Department (notification at least 24 hours in advance required) and the tank shall not be removed unless a representative of the Town is present for site and tank inspection. No Occupancy Permit shall be issued prior to the removal of the said tank.
- 2.5 **COMPLIANCE OF OUTDOOR LIGHTING FACILITIES:** Prior to the installation of any outdoor lighting facilities, the Plan shall be inspected by the Building Commissioner to determine the compliance of said facilities with the requirements of the Bylaw. Should any or all of the outdoor lighting facilities shown on the Plan, installed or intended to be installed fail to comply with the requirements of the Bylaw, the Petitioner shall cause such facilities to comply with the Bylaw requirements at his/her sole expense.
- 2.6 **CERTIFICATE OF USE AND OCCUPANCY:** No building or structure authorized by this permit shall be occupied or used, and no activity, except the construction activity authorized by this permit, shall be conducted on the site until a Certificate of Use and Occupancy has been issued by the Building Commissioner.
- 2.7 **VIOLATION OF CONDITIONS:** Violation of any of the conditions of this site plan decision shall be grounds for revocation of this Site Plan Special Permit, or of any building or occupancy permit granted hereunder. In case of any violation of the continuing obligations of this permit, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation and to enforce the conditions of this permit. The Town may enforce compliance with the conditions of this permit

by an action of injunctive relief before any court of competent jurisdiction. The owner agrees to pay the Town for the enforcement of the conditions of this permit.

3. **LIMITATIONS:** The authority granted to the Petitioner by this permit is limited as follows:
- 3.1 **APPLICABILITY OF PERMIT:** This permit applies only to the site which is the subject of this petition. All construction to be conducted on the site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.
- 3.2 **LIMITATION OF FURTHER DEVELOPMENT:** There shall be no further development or subdivision of this site without written consent of the Board.
- 3.3 **OTHER PERMITS OR APPROVALS:** This decision applies only to the requested Special Permit. Other permits or approvals required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.4 **SIGNS:** No approval of any indicated signs or advertising devices is implied by this decision.
- 3.5 **BYLAW COMPLIANCE:** The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all inclusive or to negate the remainder of the Bylaw.
- 3.6 **AMENDMENT OF PERMIT:** The Board hereby reserves its powers to modify or amend the terms and conditions of this Special Permit upon its own motion or on the application of the owner, lessee, or mortgagee of the premises. The Board further reserves its powers to amend this permit without a new public hearing provided the Board finds that such amendment is not significant to the public interest and that such amendment is not inconsistent with the purpose and intent of the Bylaw and with the terms of this permit.
- 3.7 **LAPSE OF PERMIT:** This Site Plan Special Permit shall expire on April 26, 1990 if a substantial use thereof has not commenced sooner except for good cause or if construction has not begun by said date except for good cause. Any request for an extension of the time limitation set forth herein must be made in writing to the Board at least thirty (30) days prior to said expiration date and the Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant any extension as herein provided unless it finds that the use of the property in question or construction on the site has not begun except for good cause.

3.8 APPEALS: Any person aggrieved by this decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within twenty (20) days after the filing of this decision with the Acton Town Clerk.

Witness our hand this 26th day of April, 1988.

William F. Weeks
William F. Weeks, Chairman

I, Ann Simeone, hereby certify that this is a true copy of the decision of the Board of Selectmen.

Date

Ann Simeone
Ann Simeone, Selectmen's Secretary

April 27, 1988
Date filed with Town Clerk

Cornelia O. Huber
for Cornelia O. Huber, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the decision of Capizzi & Company, Inc., has passed and there have been no appeals made to this office.

Date

Cornelia O. Huber, Town Clerk

Copy sent to:

Petitioner - Certified Mail #
Board of Health
Planning Board
Conservation Commission
Board of Appeals
Town Engineer
Building Commissioner
Board of Assessors
Town Clerk
Fire Department
Planning Boards - Littleton, Westford, Maynard, Carlisle,
Concord, Boxborough, Stow, Sudbury

RB/acs
22

DRAFT

By: Board of Selectmen RB.
For: Roland Baril, Acting Town Planner

RE: Sidewalk

This draft decision does not include a requirement for a sidewalk. The sidewalk master plan does indicate that a sidewalk would be installed at this location on the westerly side of Main Street. However, from a planning point of view the opposite or easterly side of Main Street would be the more appropriate location for a sidewalk. The main reason is, that most of the residential use is on the easterly side. On the westerly side of Main Street north of Harris Street we have almost exclusively industrial uses which do not generate any significant pedestrian traffic. Furthermore, on the residential side of Main Street are a community park and further south a soccer field. Therefore, I would advise to modify the sidewalk master plan in the near future to show a sidewalk on the easterly side of Main Street north of Rt. 28 and at this time require a standard letter of agreement for future participation in the sidewalk installation on either side of Main Street. In light of the proposed widening, a sidewalk on the westerly side of Main Street between Quarry Road and Rt. 28 would be useful.

Page ____ of ____
Date: _____

DECISION

Site Plan Special Permit
Capizzi & Company, Inc., 820 Main Street
Application #11/25/87-222 (WEEKS)
Plan File #8115

DECISION of the Board of Selectmen (hereinafter the Board) on the petition of Capizzi & Company, Inc. (hereinafter the Petitioner), for property located at 820 Main Street, Acton, Massachusetts owned by Capizzi Family Trust. Said property is shown on Acton Town Atlas map #C-7, parcel #80.

This decision is in response to an application submitted to the Board on November 25th, 1987 by the Petitioner for a Site Plan Special Permit under Section 18.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) to implement several improvements on the site including the construction of a second storage building and of an addition to the existing office/workshop building, and to use such for vehicle and equipment storage and for new office